

SENATE BILL No. 314

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-48-4.

Synopsis: Drug paraphernalia. Removes provisions making the reckless possession or sale of drug paraphernalia a Class A misdemeanor or a Class D felony for repeat offenses.

Effective: July 1, 2003.

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January 15, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 314

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-48-4-8.3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.3. (a) A person who
3 possesses a raw material, an instrument, a device, or other object that
4 the person intends to use for:

- 5 (1) introducing into the person's body a controlled substance;
- 6 (2) testing the strength, effectiveness, or purity of a controlled
7 substance; or
- 8 (3) enhancing the effect of a controlled substance;

9 in violation of this chapter commits a Class A infraction for possessing
10 paraphernalia.

11 (b) A person who:

- 12 (1) knowingly or intentionally violates subsection (a); and
- 13 (2) has a previous judgment or conviction under this section;

14 commits possession of paraphernalia, a Class D felony.

15 ~~(c) A person who recklessly possesses a raw material, an instrument,~~
16 ~~a device, or other object that is to be used primarily for:~~

- 17 ~~(1) introducing into the person's body a controlled substance;~~



(2) testing the strength, effectiveness, or purity of a controlled substance; or

(3) enhancing the effect of a controlled substance;

in violation of this chapter commits reckless possession of paraphernalia, a Class A misdemeanor. However, the offense is a Class D felony if the person has a previous judgment or conviction under this section.

SECTION 2. IC 35-48-4-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.5. (a) A person who keeps for sale, offers for sale, delivers, or finances the delivery of a raw material, an instrument, a device, or other object that is intended to be or that is designed or marketed to be used primarily for:

(1) ingesting, inhaling, or otherwise introducing into the human body marijuana, hash oil, hashish, or a controlled substance;

(2) testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, or a controlled substance;

(3) enhancing the effect of a controlled substance;

(4) manufacturing, compounding, converting, producing, processing, or preparing marijuana, hash oil, hashish, or a controlled substance;

(5) diluting or adulterating marijuana, hash oil, hashish, or a controlled substance by individuals; or

(6) any purpose announced or described by the seller that is in violation of this chapter;

commits a Class A infraction for dealing in paraphernalia.

(b) A person who:

(1) knowingly or intentionally violates subsection (a); and

(2) has a previous judgment or conviction under this section;

commits dealing in paraphernalia, a Class D felony.

(c) A person who recklessly keeps for sale, offers for sale, or delivers an instrument, a device, or other object that is to be used primarily for:

(1) ingesting, inhaling, or otherwise introducing into the human body marijuana, hash oil, hashish, or a controlled substance;

(2) testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, or a controlled substance;

(3) enhancing the effect of a controlled substance;

(4) manufacturing, compounding, converting, producing, processing, or preparing marijuana, hash oil, hashish, or a controlled substance;

(5) diluting or adulterating marijuana, hash oil, hashish, or a controlled substance by individuals; or

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1 ~~(6) any purpose announced or described by the seller that is in~~
 2 ~~violation of this chapter;~~
 3 ~~commits reckless dealing in paraphernalia; a Class A misdemeanor.~~
 4 ~~However, the offense is a Class D felony if the person has a previous~~
 5 ~~judgment or conviction under this section.~~

6 ~~(d)~~ (c) This section does not apply to the following:

7 (1) Items marketed for use in the preparation, compounding,
 8 packaging, labeling, or other use of marijuana, hash oil, hashish,
 9 or a controlled substance as an incident to lawful research,
 10 teaching, or chemical analysis and not for sale.

11 (2) Items marketed for or historically and customarily used in
 12 connection with the planting, propagating, cultivating, growing,
 13 harvesting, manufacturing, compounding, converting, producing,
 14 processing, preparing, testing, analyzing, packaging, repackaging,
 15 storing, containing, concealing, injecting, ingesting, or inhaling
 16 of tobacco or any other lawful substance.

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